

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY JOE OSBORNE,

Plaintiff,

No. 2:10-cv-3074 KJN P

vs.

CONAN O'BRIEN, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding without counsel, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).


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1 In this case, none of the defendants reside in this district. The claim allegedly
2 arose in Del Norte County, which is in the Northern District of California. Therefore, plaintiff's
3 claim should have been filed in the United States District Court for the Northern District of
4 California. In the interests of justice, a federal court may transfer a complaint filed in the wrong
5 district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932
6 (D.C. Cir. 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This court has not ruled on plaintiff's request to proceed in forma pauperis; and
9 2. This matter is transferred to the United States District Court for the Northern
10 District of California.

11 DATED: November 22, 2010

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15 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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